

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), and (e)
for
Wednesday, March 2, 2011
10:00 a.m.
Sacramento, California
&
West Covina, California

TO: Members of the California Occupational Safety and Health Appeals Board

FROM: J. Jeffrey Mojcher, Chief Counsel

DATE: February 17, 2011

RE: Closed Session of the Board to be held on March 2, 2011

Pursuant to Government Code section 11126, subdivisions (a), (c)(3), and (e) and the Labor Code sections 6609 and 6620, the Appeals Board will hear the following items in Closed Session.

DECISIONS OF ADMINISTRATIVE LAW JUDGES:

(Written decision issued by an Administrative Law Judge. The decision summarizes the evidence received from the Division of Occupational Safety & Health and the Employer, makes findings of fact for all issues involved in the appeal and gives reasons and grounds for the decision. The Board Members review the decision and decide if they will reconsider the ALJ decision on their own motion.)

1. HEROS PRODUCTION, INC., 10-R4D1-0881 AND 0882
2. JCB TRUCKING, 10-R3D5-2676 AND 2677
3. KRC SAFETY CO., INC., 09-R1D5-0475
4. THE CLOTHES LINE, 10-R6D5-1321 AND 1322

ORDERS OF ADMINISTRATIVE LAW JUDGES:

(Written order issued by an Administrative Law Judge after a pre-hearing conference in which the Division of Occupational Safety & Health and the Employer agree to settle an appeal without a hearing. The Board Members review the order and decide if they will reconsider or remand the issued order.)

1. ACCI CORPORATION, 10-R4D1-1515 AND 1516

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2. ADVANCED MAINTENANCE, 08-R4D4-2961 THROUGH 2964
3. AMERICAN POWER CONVERSION CORP., 10-R3D3-3982
4. AMF ANAHEIM LLC [FORMERLY AMS FABRICATORS INDUSTRY], 10-R3D1-3205
5. BERNARD AND HART, INC. DBA PREMIER GLASS, 10-R6D2-1742 THROUGH 1749
6. CENTRAL BLOWER CO., 10-R6D2-2345
7. COMMUNITY MAINTENANCE SERVICES, INC., 10-R3D6-3015 AND 3016
8. COUNTY OF SAN BERNARDINO, 10-R3D3-3902
9. D.D. FORD CONSTRUCTION, INC., 10-R6D2-1560 THROUGH 1564
10. DOLE FRESH VEGETABLES, INC., 09-R1D2-4147 AND 4148
11. F. KORBEL & BROS., 09-R1D5-3636 AND 3637 and 10-R1D5-0647
12. FOUR SLIDE ENGINEERING, INC., 10-R3D3-2230 AND 2231
13. FREMONT UNIFIED SCHOOL DISTRICT, 09-R1D2-4045 THROUGH 4047
14. FRONTIER FENCE COMPANY, INC., 10-R6D2-0849 THROUGH 0852
15. FRUIT GROWERS SUPPLY COMPANY, 10-R6D2-2011 THROUGH 2015
16. GLOBAL REPAIR SERVICES, 10-R3D6-3109
17. JBS USA LLC DBA SWIFT & CO., 10-R6D2-3707 THROUGH 3711
18. KING OF THE PAINTERS, INC., 10-R3D2-2596 AND 2597
19. LOS ANGELES COUNTY DEPT. OF PUBLIC SOCIAL SERVICES, 10-R4D3-3467
20. MATRIX SERVICE, INC., 10-R6D4-0934
21. NM MILLIKEN GENCO LLC FORTISTAR METHANE GROUP, 11-R3D3-0171
22. OLYMPIC AIR CONDITIONING, INC., 08-R3D3-4327 AND 4328
23. PACIFIC BELL TELEPHONE COMPANY DBA AT&T CALIFORNIA, 10-R4D3-

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24. PACIFIC DEMOLITION, 10-R3D2-0660
25. PLASTIPAK PACKAGING, INC., 10-R3D3-3457 AND 3458
26. POP GLOBAL, INC., 10-R4D1-0667 AND 0668
27. QUALITY FABRICATION, INC., 10-R4D3-3156 AND 3157
28. SAFECO CAPITAL CORPORATION, 10-R3D3-3014
29. SAN DIEGO FOOD BANK, 10-R3D2-3179 AND 3180
30. SARGENT FLETCHER, INC. DBA COBHAM MISSION SYSTEMS, 10-R3D6-2335 AND 2336
31. SIGMA STRETCH FILM DIV. OF SIGMA PLASTICS GROUP, 10-R3D3-2896 THROUGH 2898
32. SOILSERVE, 09-R1D2-3873
33. SPINIELLO COMPANIES, 10-R4D1-2437
34. STARBUCKS COFFEE COMPANY, 10-R3D2-0566
35. STEVE'S OILFIELD SERVICE DBA SOS CRANE AND TRUCKING, 10-R3D5-3639
36. SWAMI INTERNATIONAL, INC., 10-R4D1-0751 THROUGH 0753
37. TEMPLE-INLAND, INC., 10-R3D3-3483
38. THE PICTWEET COMPANY, 10-R6D2-2681
39. TITAN STEEL CONSTRUCTION, INC., 09-R1D2-3967 THROUGH 3970
40. DIEU NGOO TRAN DBA MB'S AUTO BODY FENDER, 10-R6D7-2509 and 10-R6D7-2607
41. TWINING LABORATORIES OF SOUTHERN CALIFORNIA, INC., 10-R4D3-2548 AND 2549
42. FRANCISCO RAFAEL VALLE, 10-R4D4-2056 THROUGH 2060
43. VAN CAN COMPANY, 10-R3D3-3899 THROUGH 3901

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44. WALLDESIGN, INC., 10-R3D2-0214
45. WAVE HOUSE INTERNATIONAL DBA WAVE HOUSE BELMONT, 10-R3D2-1897
46. ZOOLOGICAL SOCIETY OF SAN DIEGO – SAN DIEGO ZOO, 10-R3D2-2542

ORDERS DISMISSING APPEALS:

1. JAMES M. PURCELL, 09-R6D6-4253 AND 4254
2. JEFFREY M. SCHOUTEN & THOMAS F. GALINDO DBA TJ AGRICULTURE, 08-R2D1-3277
3. UNITED PIZZA, INC. DBA PAPA JOHN'S PIZZA STORE, #1899, 09-R2D1-3295 AND 3296

ORDER DENYING LEAVE TO FILE LATE APPEAL:

1. ISK FASHION, INC., 11-R6D5-9025

PETITIONS FOR RECONSIDERATION:

(The Division of Occupational Safety & Health and the Employer each has the right to petition the Appeals Board to reconsider a decision or order of an Administrative Law Judge. The Appeals Board must decide to grant or deny each petition.)

1. BAKERSFIELD CENTRAL METAL, INC., 10-R2D5-2140
2. COAST LINE WORDWORK CORP., 10-R3D2-9274

DENIALS OF PETITIONS FOR RECONSIDERATION (DRAFTS):

If the Appeals Board votes to deny a Petition for Reconsideration, the Legal Unit drafts a letter of denial to the petitioner. The draft correspondence is then reviewed and approved for signature or not approved for signature by the Board.

1. RATTO BROS, INC., 10-R6D3-9291
2. MASCON, INC., 08-R2D1-4278 & 4279
3. SZEMENYEI CONSTRUCTION, INC., 10-R3D1-0008

DECISIONS AFTER RECONSIDERATION (DRAFTS):

(If the Appeals Board grants a petition for reconsideration it reviews the facts of the appeal and then issues a decision after reconsideration upholding, reversing or modifying the

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underlying ALJ decision.)

1. A & C PALLETS, 10-R6D5-1687 AND 1688
2. AARON METALS COMPANY, INC., 09-R1D4-2137 AND 2138
3. AC TRANSIT, 08-R1D4-0135
4. AGWOOD MILL & LUMBER, INC., 08-R1D5-1068
5. VERNON MELVIN ANTONSEN & COLLEEN K. ANTONSEN, INDIVIDUALLY
DBA ANTONSEN CONSTRUCTION, 06-R2D3-1272
6. ANNING-JOHNSON COMPANY, 06-R1D3-1976
7. BIMBO BAKERIES USA, 05-R6D2-856 AND 857
8. BOBERG ENGINEERING & CONTRACTING, INC., 06-R3D3-4963
9. BRUNTON ENTERPRISES DBA PLAS-TAL MFG. CO., 09-R6D2-2239
THROUGH 2241
10. BURRTEC WASTE INDUSTRIES, INC., 10-R3D3-9222
11. BURTON L. SILVA FARMS, 09-R1D2-1498
12. C & M FINE PACK, INC. 07-R6D2-4149 THROUGH 4155
13. C.C. MYERS, INC., 08-R1D1-952 THROUGH 955
14. CA CORRECTIONS, 08-R2D5-0975 THROUGH 0978
15. CA RASMUSSEN, INC., 08-R4D5-219 AND 220
16. CALIFORNIA INTERSTATE EXPRESS, 09-R4D2-3460
17. CLINE CELLARS, INC., 08-R1D5-2946
18. CJI PROCESS SYSTEMS, 09-R6D2-1333 THROUGH 1336
19. COMMERCIAL METAL FORMING, 09-R3D1-1592
20. CORONADO IRRIGATION SERVICES, 09-R4D2-0385 THROUGH 0387
21. CROP PRODUCTION SERVICES, 09-R6D4-4036 THROUGH 4038

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22. DAKOTA COMPANIES UNLIMITED, 05-R4D3-392 AND 393
23. DESIGN BUILDERS, INC., 08-R4D4-1901
24. JOAQUIN DUARTE DBA PROFESSIONAL TREE SERVICE, 09-R3D3-1111
25. DUKE PACIFIC, INC., 06-R3D3-5175 THROUGH 5177
26. DUKE PACIFIC, INC., 08-R3D3-574
27. DUININCK BROS., INC., 06-R4D3-2871
28. EPSILON ELECTRONICS, INC. DBA POWER ACOUSTIK ELECTRONICS, 09-R6D2-2325 THROUGH 2332
29. ESTENSON LOGISTICS LLC 05-R1D4-1755 AND 1756
30. EZ MIX, INC., 08-R4D3-1898
31. FORKLIFT SALES OF SACRAMENTO, INC., 05-R2D1-3477
32. FORTUNA IRON WORKS 06-R2D3-4222
33. G.T. ALDERMAN, INC., 05-R4D3-3513
34. GENERAL TRUSS CO. INC., 06-R2D1-783 AND 784
35. GHILOTTI BROS. CONTRACTORS, 04-R1D5-2321 AND 2322
36. GRANITE ROCK COMPANY, 08-R1D3-3675 THROUGH 3678
37. HB PARKCO, 07-R4D2-1730 AND 1731
38. THE HERRICK CORP., 07-R3D1-495
39. INDUSTRIAL MASONRY, INC., 07-R3D2-735 AND 736
40. INTERNATIONAL ALUMINUM CORPORATION, 09-R6D2-1185
41. IRWIN INDUSTRIES, INC., 08-R6D4-1454 THROUGH 1456
42. JENSEN PRECAST, 05-R2D1-2377
43. JOHN M. FRANK CONSTRUCTION, 06-R4D3-968
44. KELLY SERVICES, INC., 06-R1D2-1024

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45. KINDER MORGAN ENERGY PARTNERS, LP., 05-R5D1-2013 AND 2014
46. LA MINA CANTINA, 09-R2D5-0039
47. LAND O' LAKES PURINA FEED LLC, 08-R2D4-1843 AND 1844
48. LIQUIVISION TECHNOLOGY, INC., 08-R2D1-1712 THROUGH 1714
49. LION RAISINS, INC., 08-R2D5-2253 AND 2254
50. L N I CUSTOM MANUFACTURING, 10-R6D2-9154
51. LOS ANGELES, CITY OF, HOUSING AUTHORITY, (HACLA), 05-R4D2-2541
52. LOS ANGELES, COUNTY OF, DEPT. OF PUBLIC WORKS, 07-R4D2-2540
53. MARIA DE LOS ANGELES COLUNGA dba MERCED FARM LABOR
08-R6D5-3466 AND 3467
54. MARINE TERMINALS, 08-08-R6D2-1920
55. MARTIN J. SOLIS, DBA SOLIS FARM LABOR, 08-R2D1-3415
56. MARTIN J. SOLIS DBA SOLIS FARM LABOR CONTRACTOR, 08-R2D1-3414
THROUGH 3418
57. MELMARC PRODUCTS, INC., 09-R3D1-2878
58. MICHELS CORP. DBA MICHELS PIPELINE CONSTRUCTION, 07-R5D1-4274
59. MILLENIUM GENERATION, INC., 08-R4D3-5047
60. MOOREFIELD CONSTRUCTION, INC., 10-R3D5-9207
61. NEWMAN FLANGE & FITTING COMPANY, 07-R2D4-2581 THROUGH 2583
62. NIBBI BROTHERS ASSOCIATES, INC., 07-R1D1-2494
63. PARAMOUNT FARMS, KING FACILITY, 09-R4D3-0864
64. PERFORMANCE CONTRACTING GROUP DBA PERFORMANCE
CONTRACTING, INC., 08-R2D1-0025 AND 0026
65. POUK & STEINLE, INC., 09-R3D3-0491
66. R & L BROSAMER, INC., 03-R1D5-4832

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67. RAMON ARANDA dba I & R PALLETS, 10-R6D5-9053
68. RIEZEBOS CONSTRUCTION, INC., 08-R2D5-1730
69. JOSH AND CARRIE SALAZAR DBA CJ MANUFACTURING, 09-R6D2-1710
70. SAN FRANCISCO FIRE DEPARTMENT, 09-R1D1-0655
71. SANTA PAULA HARVESTING, 09-R4D3-0510 THROUGH 0514
72. SANTA ROSA CITY TRANSIT AND PARKING DEPARTMENT, 05-R1D5-1417
73. SHEEDY DRAYAGE COMPANY, 06-R1D4-3053 THROUGH 3055
74. SHIMMICK-OBAYASHI, 08-R3D3-5023 THROUGH 5025
75. SMUD, 08-R2D1-4887 THROUGH 4889 (filed by DOSH)
76. STACY & WITBECK, INC., 05-R1D1-1142
77. SUNOPTA FRUIT GROUP, 09-R3D1-9245
78. SUNRISE GROWERES FROZ SUN FOODS, 09-R4D3-2850
79. TEICHERT & SON, INC., A CORPORATION DBA TEICHERT
AGGREGATES, 04-R5D2-850 AND 851
80. TEICHERT & SON, INC. DBA TEICHERT CONSTRUCTION, 05-R2D4-2650
AND 2651
81. UKIAH FORD-LINCOLN=MERCURY, INC., 06-R1D5-2256 AND 2557
82. UNITED PARCEL SERVICE, 07-R3D3-3322
83. WEBCOR CONSTRUCTION, 06-R1D1-2093 THROUGH 2095
84. WINCHESTER CONSTRUCTION, 08-R4D3-4709 AND 4710

PENDING LITIGATION:

(If the Division of Occupational Safety & Health or the Employer disagrees with a decision after reconsideration or a denial of a petition for reconsideration, either one or both parties may apply to the California Superior Court for a writ of mandate. The Appeals Board receives legal advice from its Legal Unit and provides policy direction regarding pending litigation.)

SUPERIOR COURT:

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1. JERLANE, 37-2007-00056381-CU-WM-NC (01-4344/4345)
2. JERLANE, 37-2009-00059323-CU-WM-NC (08-1733)
3. E.L. YEAGER CONSTRUCTION COMPANY, INC. (DOSH v OSHAB),
34-2007-00882192-CU-WM-GDS, (01-3261)
4. BRUTOCO ENGINEERING & CONSTRUCTION, INC., 30-2007 00100159 (07-
9223)
5. MCI WORLDCOM, 34-2008-00006043-CU-WM-GDS (DOSH v. OSHAB) (00-440)
6. SHIMMICK CONSTRUCTION CO., 34-2008-80000121-CU-WM-GDS (06-1136)
7. XL CONSTRUCTION, 34-2009-80000300 (08- 1191/1193)
8. M.C.M. CONSTRUCTION, INC., 34-2009-80000378 (09-9230)
9. WEBCOR CONSTRUCTION LP dba WEBCOR BUILDERS, 34-2009-80000384
(08-R1D2-2499/2500)
10. WEBCOR BUILDER, INC., 34-2010-80000439 (06-R1D1-3030/3032)
11. WPCS INTERNATIONAL SUISUN CITY, INC., 34-2010-80000430
(09- 9280/9281)
12. FRESNO PRODUCE, CO., INC., 10CECG02394 (10-R6D1-9064)
13. MISSION FLAVORS AND FRAGRANCE, INC., 34-2010-80000599 (05-R6D2-
1139)
14. GRANITE CONSTRUCTION CO., INC., (DOSH V OSHAB) 34-2010-800006047
(07-R5D1-3611)
15. CLARK PACIFIC, A GENERAL CALIFORNIA PARTNERSHIP, 34-2010-
80000640 (08-R2D1-0027 THROUGH 0030)
16. EMERSON RUSSELL MAINTENANCE CO., RG-10543219 (08-R1D4-4167)
17. SMUD, 34-2010-80000723 (08-R2D1-4887)
18. CAL ENERGY OPERATING CORP., 34-2010-80000735 (09-R3D2-3675 & 3676)

COURT OF APPEAL

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1. HARRIS CONSTRUCTION COMPANY, INC., C065265 (07CS00518) (05-3914)
2. HARRIS CONSTRUCTION COMPANY, INC., C065265 (07CS00518) (05-3914)

PERSONNEL:

(Issues regarding staff.)

Any matter not completed at this Closed Session may be continued to subsequent meetings.